

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

ANDRE T. CONLEY,
Petitioner

vs

Case No. 1:09-cv-555

Barrett, J.
Black, M.J.

WARDEN, ROSS CORRECTIONAL
INSTITUTION,
Respondent

REPORT AND RECOMMENDATION

On December 1, 2009, the undersigned issued a Report and Recommendation that this habeas corpus action be dismissed for lack of prosecution and failure to comply with a Court Order. (Doc. 6). Upon motion of the petitioner, the Court withdrew that Report and Recommendation and granted petitioner a further extension of time to submit his habeas corpus petition and financial information. (Docs. 7, 9). The Court granted petitioner an extension of time of sixty (60) days to submit (1) a habeas corpus petition, (2) an Application to Proceed Without Prepayment of Fees form, and (3) a prison trust fund account statement showing he has less than \$5.00 in his prison account. The Court also advised petitioner that if he is financially able, he must pay the \$5.00 filing fee. (Doc. 9).

On December 28, 2009, petitioner paid the \$5.00 filing fee. (See docket notation of 12/28/2009).

Thereafter, petitioner requested and was granted a further extension of time until April 19, 2010 to submit his habeas corpus petition. (Doc. 13).

To date, petitioner has failed to submit a habeas corpus petition.

District courts have the inherent power to *sua sponte* dismiss civil actions for want of

prosecution to manage their own affairs so as to achieve the orderly and expeditious disposition of cases.” *Link v. Wabash R.R.*, 370 U.S. 626, 630-631 (1962). Failure of a party to respond to an order of the court warrants invocation of the Court’s inherent power in this federal habeas corpus proceeding. *See* Fed. R. Civ. P. 41(b); *see also* Rule 11, Rules Governing Section 2254 Cases in the United States District Courts, 28 U.S.C. foll. § 2254.

It is therefore **RECOMMENDED** that this matter be **DISMISSED** for lack of prosecution.

Date: 4/22/2010

s/Timothy S. Black
Timothy S. Black
United States Magistrate Judge

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NOTICE

Attached hereto is a Report and Recommendation issued by the Honorable Timothy S. Black, United States Magistrate Judge, in the above-entitled habeas corpus action. Pursuant to Fed. R. Civ. P. 72(b), which may be applied in this action under Rules 1 and 11 of the Rules Governing Section 2254 Cases in the United States District Courts, 28 U.S.C. foll. § 2254, any party may object to the Magistrate Judge's Report and Recommendation within **fourteen (14) days** after being served with a copy thereof. Such party shall file with the Clerk of Court and serve on all other parties written objections to the Report and Recommendation, specifically identifying the portion(s) of the proposed findings, recommendations, or report objected to, together with a memorandum of law setting forth the basis for such objection(s). Any response by an opposing party to the written objections shall be filed within **fourteen (14) days** after the opposing party has been served with the objections. *See Fed. R. Civ. P. 72(b).* A party's failure to make objections in accordance with the procedure outlined above may result in a forfeiture of his rights on appeal. *See Thomas v. Arn, 474 U.S. 140 (1985); United States v. Walters, 638 F.2d 947 (6th Cir. 1981).*